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FISCAL IMPACT REPORT

ORIGINAL DATE 2-5-07

SPONSOR Harrison LAST UPDATED _____ HB 1062

SHORT TITLE Close Black Jack Mine in McKinley County SB _____

ANALYST Woods

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
NFI	652.5	Non-Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy, Minerals and Natural Resources Department (EMNRD)
New Mexico Environment Department (NMED)

SUMMARY

Synopsis of Bill

House Bill 1062 seeks to appropriate \$652,500 from the general fund to the Energy, Minerals and Natural Resources Department for expenditure in fiscal year 2008 to close the abandoned Black Jack mine in McKinley County. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

FISCAL IMPLICATIONS

To achieve the goal of mine reclamation within the one year timeframe of the appropriation, EMNRD will likely fund the project through a contract or joint powers agreement.

SIGNIFICANT ISSUES

As background, the Energy, Minerals and Natural Resources Department (EMNRD) advises that the Black Jack Mine was operated as an underground uranium mine between 1959 and 1964 and produced over a million pounds of uranium. After the mine was closed, the shaft was sealed and

most structures were removed. However, considerable surface disturbance remains, including concrete pads and a large waste rock pile. Measurements of soil and air indicate high levels of radionuclides remain. These materials may be hazardous to the residents of the Smith Lake community, to grazing activities in the area, and, potentially, to the ground water which is used by the community. EMNRD suggests that the site needs a final reclamation treatment with contaminated materials either removed or encapsulated and the surface restored. The department points out the following considerations:

1. The uranium mining “boom” from the 1950s to the 1980s left behind hundreds of sites with significant disturbances and environmental and health impacts. Many of these sites, particularly the larger mines and mills, have been reclaimed, or are being reclaimed, under the authority of various state, federal and tribal authorities. However, a number of sites have not been reclaimed. These include older sites, particularly those located in the checkerboard area of mixed federal, state and tribal jurisdiction. The Black Jack Mine is one of those sites that remains to be fully reclaimed.
2. The reclamation of the Black Jack Mine may present some jurisdictional questions because it appears the site is located on tribal trust land. EMNRD is willing to work with the Navajo Nation to conduct and to complete the closure of the site. If necessary, a joint powers agreement could be employed. It is also possible Environmental Protection Agency would be involved. If so, a joint powers agreement could again be used.

The New Mexico Environment Department (NMED) notes that abandoned uranium mines in the northwestern portion of the state pose a variety of safety and health concerns, including threats to public safety from the hazards of open shafts, threats to public health from public exposure to windblown uranium soils onto neighboring residential properties and threats to groundwater quality from leaching of uranium contaminated soils into underlying underground sources of drinking water. Abandoned uranium mines have caused soil and groundwater contamination at a number of sites in New Mexico. Further, that the Black Jack mine is an unreclaimed former uranium mine located near Smith Lake between Thoreau and Crownpoint, New Mexico. The mine operated from approximately 1959 to 1964. Most of the structures on the site were razed. The mine site contains a vertical shaft, three subsidence areas and a large volume of uranium mine waste on the surface and remains of concrete structures. The mining area is approximately 1.5 miles upgradient of a Navajo Housing Authority complex. Surface water runoff eventually leaves the mine site area and is deposited in nearby Smith Lake, a source of livestock watering. Site inspections and sampling of air, water and soils at the site by NMED in the 1980s and 1990s showed downwind air containing three times the upwind concentrations of radon and radionuclides in soils on-site that are three times the background concentrations. NMED concludes that there is the potential for radionuclides to leach from the site and cause groundwater to become contaminated, and that funding of remedial activities at the Black Jack Mine site will reduce threats to public safety, public health and enable the state to better protect and preserve water quality and enhance potable supplies in nearby communities.

PERFORMANCE IMPLICATIONS

EMNRD indicates that the department’s Mining and Minerals Division seeks to reclaim land impacted by past mining activity. Other federal and tribal agencies have similar goals.

However, the cleanup of the Black Jack Mine has eluded these agencies. Because mining ceased in 1964, this mine falls outside the jurisdiction of the New Mexico Mining Act. Both New Mexico and the Navajo Nation receive federal grants for abandoned mine reclamation; however, limits on those grants imposed by federal law have prevented each program from reclaiming this site. This appropriation, EMNRD opines, will allow the State of New Mexico, working with the Navajo Nation, to overcome these barriers and reclaim the Black Jack Mine.

NMED indicates that it will need to coordinate with EMNRD to ensure that the remedial closure activities conducted conform with New Mexico Water Quality Control Commission regulations for protection of groundwater and surface water resources. However, there is already a program for coordination of those types of activities between NMED and EMNRD, which would make the overall work impacts minimal.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

EMNRD indicates that a capital outlay request by Senator Linda Lovejoy seeks \$652,500 for the Indian Affairs Department to “plan, design, and construct mine reclamation in Smith Lake Chapter”. Based on discussions with Navajo Nation officials, EMNRD indicates it believes that request is also for the closure of the Black Jack Mine.

TECHNICAL ISSUES

EMNRD notes the bill uses the term “close” in a slightly confusing manner. In this bill, “close” means to reclaim or remediate or cleanup the site, not to cease operating the mine. The mine ceased operating in 1964, but is in need of further work to restore and protect the area.

OTHER SUBSTANTIVE ISSUES

NMED indicates that threats to water quality and the need to protect water resource supplies through abatement of existing sources of water pollution are becoming increasingly significant concerns as the state’s population continues to grow. This funding will enhance the protection of water quality and limit future public health threats from exposed uranium mine wastes.

EMNRD notes the appropriation is only available for one fiscal year. The requirements for an effective environmental cleanup may extend beyond one year; therefore, it would be helpful to extend the appropriation into 2009. This may be necessary to allow time for jurisdictional issues to be worked out.

ALTERNATIVES

EMNRD suggests that the Legislature could choose to fund this work through the capital outlay request of Senator Lovejoy.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

EMNRD states, “The Black Jack Mine will remain a hazard to the nearby community at least for the near future.”

NMED agrees, noting that, “The Black Jack Mine site will continue to pose a hazard to public

health from windblown radionuclides and surface water runoff and leaching of contaminants at the site will have the potential to migrate radionuclides into state water resources. Consequently, degradation of water quality and public health could result, potentially hindering economic growth.”

AMENDMENTS

EMNRD suggests that, if necessary for clarification, on line 18, strike “close” and insert “reclaim”. To extend the appropriation to address possible need for more than one year to complete reclamation, on line 18 change “fiscal year 2008, to fiscal years 2008 and 2009; and line 21, change 2008 to 2009.

BFW/mt